

REMARKS/ARGUMENTS

Interview Summary

A telephonic interview was conducted on March 7, 2007 with the Examiner, Brian J. Assessor, by the Applicants' representative, Rabindranath Dutta, Registration No. 51,010. During the course of the interview, oral arguments were presented for the patentability of certain claim limitations over the Examiner cited sections of the Bhaskaran (US 6,266,335) reference.

On hearing the arguments presented by the Applicants the Examiner suggested that the Applicants should present the arguments for patentability in a formal response. While the Examiner did not make any formal commitment on the allowance of the claims, he appeared to suggest that for independent claims 1, 11, 21, the arguments presented by the applicants appeared to overcome the cited Bhaskaran, although according to the Examiner a "deeper look" would be taken once the formal response is filed.

35 U.S.C. 102 and 103 based rejections

The Examiner has rejected claims 1, 11, and 21 under 35 U.S.C. 102(b) as being anticipated by Bhaskaran (US 6,266,335). Claims 3, 13, and 23 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Bhaskaran in view of Allen (US 7,003,693). Claims 4-5, 7-10, 14-15, 17-20, and 24-25, 27-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kandasamy (5,513,314) in view of Bhaskaran.

Applicants have canceled claims 5, 7-10, 15, 17-20, 25, 27-30 and traverse the rejection of claims 1, 3, 4, 11, 13, 14, 21, 23, 24.

Independent claims 1, 11, 21

Amended independent claims 1, 11, 21 require receiving an indication of a failure of a primary storage subsystem at a switch, wherein the switch couples a host to the primary storage subsystem and a secondary storage subsystem; and

subsequently, directing a command from the host received at the switch to the secondary storage subsystem for completion by changing a source volume and a target volume in the

command to correspond to volumes in the secondary storage subsystem, wherein the source volume and the target volume are for I/O operations, and wherein the changing is performed by a switching application in the switch.

The Examiner has rejected claims 1, 11, and 21 under 35 U.S.C. 102(b) as being anticipated by Bhaskaran (US 6,266,335). In the “Response to Arguments” the Examiner has indicated that the claim requirements of a source volume and a target volume in a command received at the switch from a host is disclosed in col. 6. lines 51-53 of the cited Bhaskaran. Applicants submit that col. 6, lines 51-53 of the cited Bhaskaran used in rejecting the claims mentions that “FIG. 3B illustrates the format of link filed 320. Link field 320 has a Data Link source address field 380, a Data Link Layer destination address field 390 and type field 395”. Applicants submit that the Data Link source address field 380 and the Data Link Layer destination address field 390 of the cited Bhaskaran as referred to by the Examiner are MAC source address (Cited Bhaskaran: FIG. 3B, reference numeral 380) and MAC destination address (Cited Bhaskaran: FIG. 3B, reference numeral 390) respectively as can be seen in FIG. 3B of the cited Bhaskaran. Applicants submit that the term MAC as used in FIG. 3B of the cited Bhaskaran is an abbreviation for “Medium Access Control” and MAC source address and MAC destination address may comprise a unique address associated with a Network Interface Card. Applicants respectfully submit that source and targets volumes of the claim requirements are storage volumes and are different from the source address field 380 and the destination address field 390 of the cited Bhaskaran which appear to refer to unique addresses associated with Network Interface Card. Applicants also draw the attention of the Examiner to paragraph 28 of the Application filed by the Applicants to further support that the source and target volumes of the claim requirements are different from the source address field 390 and the destination address field 390 of the cited Bhaskaran.

Therefore, while the cited Bhaskaran may discuss a system where a switch changes source and destination MAC addresses, the claims require changing, by the switching application in the switch, the source volume and a target volume in the command to correspond to volumes in the secondary storage subsystem, and these claim requirements are neither taught nor disclosed by the cited Bhaskaran (col. 6. lines 51-53; col. 8, lines 56-59) used in rejecting the claims.

In particular, the cited Bhaskaran discusses switching source and destination MAC addresses whereas the claims require (i) a source volume and a target volume in a command received at the switch from a host; and (ii) changing, by the switching application in the switch, the source volume and a target volume in the command to correspond to volumes in the secondary storage subsystem; and these claim requirements are not taught or disclosed by the cited Bhaskaran.

For the above reasons independent claims 1, 11, 21 are patentable over the cited art.

Dependent claims 3-4, 13-14, 23-24.

Additionally, claims 3-4, 13-14, 23-24 depend directly or indirectly on the pending independent claims 1, 11, 21. Applicants submit that these claims are patentable over the cited art because they depend from claims 1, 11, 21 which are patentable over the cited art for the reason discussed above, and because the combination of the limitations in the dependent claims and the base and intervening claims from which claims 3-4, 13-14, 23-24 depend provide further grounds of distinction over the cited art.

Conclusion

For all the above reasons, Applicant submits that the pending claims are patentable over the art of record. Should any additional fees be required, please charge Deposit Account No. 09-0449.

The attorney/agent of record invites the Examiner to contact him at (310) 557-2292 if the Examiner believes such contact would advance the prosecution of the case.

Dated: March 12, 2007

By: /Rabindranath Dutta/

Rabindranath Dutta
Registration No. 51,010

Please direct all correspondences to:

Rabindranath Dutta
Konrad Raynes & Victor, LLP
315 South Beverly Drive, Ste. 210

Amdt. dated March 12, 2007
Reply to Office action of January 11, 2007

Serial No. 10/690,068
Docket No. TUC920030005US1
Firm No. 0018.0126

Beverly Hills, CA 90212
Tel: (310) 557-2292
Fax: 310-556-7984